

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

MAY 14 2014

CLERK, U.S. DISTRICT COURT
By _____ Deputy _____

3:14-CV-1130-P

CHRISTIANE KOLETZKO,
Plaintiff,

v.

THOMAS R. BENSON, ET AL.,
Defendants.

**FINDINGS CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b) and an order of the District Court, this case has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge follow:

Discussion:

Plaintiff filed this complaint on March 31, 2014. She also filed an application to proceed *in forma pauperis*. Whether to permit or deny an application to proceed *in forma pauperis* is within the sound discretion of the Court. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988); *see also* 28 U.S.C. §1915(a). Courts should make the assessment of financial ability after considering whether payment of the filing fee will result in the plaintiff “suffering undue financial hardship.” *Prows*, 842 F.2d at 140.

Plaintiff’s application to proceed *in forma pauperis* states that she and her husband have a combined monthly income of \$12,182. Plaintiff also owns a home and has no legal dependents, although she does give money to two friends. The Court finds Plaintiff is not a pauper and that she will not suffer undue financial hardship after payment of the entire \$400 filing fee.

Recommendation:

For the foregoing reasons, the Court recommends that the District Court deny Plaintiff leave to proceed *in forma pauperis*. The Court further recommends that the District Court dismiss this complaint unless Plaintiff tenders the \$400.00 filing fee to the District Clerk within 14 days of the filing of this recommendation.

Signed this 19 day of May 2014.


PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b).* In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996).*